



DEPARTMENT OF COMMERCE

INTERNATIONAL TRADE ADMINISTRATION

C-533-907, C-821-837

Sodium Nitrite from India and the Russian Federation: Initiation of Countervailing Duty Investigations

AGENCY: Enforcement and Compliance, International Trade Administration, Department of Commerce

DATES: Applicable February 2, 2022.

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SUPPLEMENTARY INFORMATION:

The Petitions

On January 13, 2022, the Department of Commerce (Commerce) received countervailing duty (CVD) petitions concerning imports of sodium nitrite from India and Russia, filed in proper form on behalf of Chemtrade Chemicals US, LLC (the petitioner), a domestic producer of sodium nitrite.¹ The Petitions were accompanied by antidumping duty (AD) petitions concerning imports of sodium nitrite from India and Russia.²

Between January 18 and 27, 2022, Commerce requested supplemental information pertaining to certain aspects of the Petitions in separate supplemental questionnaires and

¹ See Petitioner's Letter, "Sodium Nitrite from India and Russia: Antidumping and Countervailing Duty Petitions," dated January 13, 2022 (the Petitions).

² *Id.*

telephone calls.³ The petitioner filed responses to these requests on January 20, 21, 24, and 26, 2022.⁴

In accordance with section 702(b)(1) of the Tariff Act of 1930, as amended (the Act), the petitioner alleges that the Government of India (GOI) and the Government of Russia (GOR) are providing countervailable subsidies, within the meaning of sections 701 and 771(5) of the Act, to producers of sodium nitrite in India and Russia, and that imports of such products are materially injuring, or threatening material injury to, the sodium nitrite industry in the United States. Consistent with section 702(b)(1) of the Act and 19 CFR 351.202(b), for those alleged programs on which we are initiating CVD investigations, the Petitions were accompanied by information reasonably available to the petitioner supporting its allegations.

Commerce finds that the petitioner filed the Petitions on behalf of the domestic industry, because the petitioner is an interested party, as defined in section 771(9)(C) of the Act.

Commerce also finds that the petitioner demonstrated sufficient industry support for the initiation of the requested CVD investigations.⁵

³ See Commerce's Letters, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India: Supplemental Questions," dated January 18, 2022; "Petition for the Imposition of Countervailing Duties on Imports of Sodium Nitrite from the Russian Federation: Supplemental Questions," dated January 18, 2022; "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and the Russian Federation: Supplemental Questions," dated January 19, 2022; and "Petition for the Imposition of Countervailing Duties on Imports of Sodium Nitrite from India: Second Supplemental Questions," dated January 24, 2022; *see also* Memorandum, "Petitions for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and the Russian Federation: Phone Call with Counsel to the Petitioner," dated January 27, 2022.

⁴ See Petitioner's Letters, "Sodium Nitrite from India: Responses to Supplemental Questions Regarding the Countervailing Duty Petition," dated January 20, 2022; "Petition for the Imposition of Antidumping and Countervailing Duties on Imports of Sodium Nitrite from India and Russia: Supplemental Questionnaire Responses to Petition General Issues," dated January 21, 2022 (General Issues Supplement); "Sodium Nitrite from India and Russia: Errata to Supplemental Questionnaire Responses to Petition General Issues," dated January 24, 2022 (General Issues Errata); "Petition for the Imposition of Countervailing Duties on Imports of Sodium Nitrite from Russia: Responses to Supplemental Questions Regarding the Countervailing Duty Petition," dated January 21, 2022; "Sodium Nitrite from India: Responses to Second Supplemental Questions Regarding the Countervailing Duty Petition," dated January 26, 2022; and "Sodium Nitrite from India and Russia: Second Supplemental Questionnaire Response to Petition General Issues," dated January 27, 2022 (Second General Issues Supplement).

⁵ See "Determination of Industry Support for the Petitions" section, *infra*.

Periods of Investigation

Because the Petitions were filed on January 13, 2022, the period of investigation (POI) for these CVD investigations is January 1, 2021, through December 31, 2021, pursuant to 19 CFR 351.204(b)(2).

Scope of the Investigations

The product covered by these investigations is sodium nitrite from India and Russia. For a full description of the scope of these investigations, *see* the appendix to this notice.

Comments on Scope of the Investigations

As discussed in the *Preamble* to Commerce's regulations, we are setting aside a period for interested parties to raise issues regarding product coverage (*i.e.*, scope).⁶ Commerce will consider all comments received from interested parties and, if necessary, will consult with interested parties prior to the issuance of the preliminary determinations. If scope comments include factual information,⁷ all such factual information should be limited to public information. To facilitate preparation of its questionnaires, Commerce requests that all interested parties submit scope comments by 5:00 p.m. Eastern Time (ET) on February 22, 2022, which is 20 calendar days from the signature date of this notice. Any rebuttal comments, which may include factual information, must be filed by 5:00 p.m. ET on March 4, 2022, which is ten calendar days from the initial comment deadline.

Commerce requests that any factual information the parties consider relevant to the scope of the investigations be submitted during this time period. However, if a party subsequently finds that additional factual information pertaining to the scope of these investigations may be relevant, the party must contact Commerce and request permission to submit the additional information. All such comments must be filed on the records of each of the concurrent AD and CVD investigations.

⁶ See *Antidumping Duties; Countervailing Duties; Final Rule*, 62 FR 27296, 27323 (May 19, 1997) (*Preamble*).

⁷ See 19 CFR 351.102(b)(21) (defining "factual information.").

Filing Requirements

All submissions to Commerce must be filed electronically using Enforcement and Compliance's Antidumping Duty and Countervailing Duty Centralized Electronic Service System (ACCESS), unless an exception applies.⁸ An electronically-filed document must be received successfully in its entirety by the time and date it is due. Note that Commerce has temporarily modified certain of its requirements for serving documents containing business proprietary information until further notice.⁹

Consultations

Pursuant to sections 702(b)(4)(A)(i) and (ii) of the Act, Commerce notified the GOI and the GOR of the receipt of the Petitions and provided an opportunity for consultations with respect to the Petitions.¹⁰ Commerce held consultations with the GOI and the GOR on January 28, 2022.¹¹ On February 1, 2022, the GOI submitted pre-initiation consultation comments.¹²

Determination of Industry Support for the Petitions

Section 702(b)(1) of the Act requires that a petition be filed on behalf of the domestic industry. Section 702(c)(4)(A) of the Act provides that a petition meets this requirement if the domestic producers or workers who support the petition account for: (i) at least 25 percent of the total production of the domestic like product; and (ii) more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing

⁸ See *Antidumping and Countervailing Duty Proceedings: Electronic Filing Procedures; Administrative Protective Order Procedures*, 76 FR 39263 (July 6, 2011); see also *Enforcement and Compliance; Change of Electronic Filing System Name*, 79 FR 69046 (November 20, 2014) for details of Commerce's electronic filing requirements, effective August 5, 2011. Information on using ACCESS can be found at <https://access.trade.gov/help.aspx> and a handbook can be found at <https://access.trade.gov/help/Handbook%20on%20Electronic%20Filing%20Procedures.pdf>.

⁹ See *Temporary Rule Modifying AD/CVD Service Requirements Due to COVID-19; Extension of Effective Period*, 85 FR 41363 (July 10, 2020).

¹⁰ See Commerce's Letters, "Petition for the Imposition of Countervailing Duty Petition on Imports of Certain Sodium Nitrite from India: Invitation for Consultations to Discuss the Countervailing Duty Petition," dated January 18, 2022; and "Sodium Nitrite from the Russian Federation: Invitation for Consultation to Discuss the Countervailing Duty Petition," dated January 14, 2022.

¹¹ See Memoranda, "Countervailing Duty Petition on Sodium Nitrite from India: Consultations with Officials from the Government of India," dated January 28, 2022; and "Countervailing Duty Petition on Sodium Nitrite from the Russian Federation: Consultations with Officials from the Government of the Russian Federation," dated January 31, 2022.

¹² See GOI's Letter, "Pre-Initiation Consultation Note on the Petition for Initiation of Countervailing Duty Investigation concerning imports of Certain Sodium Nitrite from India (Case No. 533-907)," dated February 1, 2022.

support for, or opposition to, the petition. Moreover, section 702(c)(4)(D) of the Act provides that, if the petition does not establish support of domestic producers or workers accounting for more than 50 percent of the total production of the domestic like product, Commerce shall: (i) poll the industry or rely on other information in order to determine if there is support for the petition, as required by subparagraph (A); or (ii) determine industry support using a statistically valid sampling method to poll the “industry.”

Section 771(4)(A) of the Act defines the “industry” as the producers as a whole of a domestic like product. Thus, to determine whether a petition has the requisite industry support, the statute directs Commerce to look to producers and workers who produce the domestic like product. The International Trade Commission (ITC), which is responsible for determining whether “the domestic industry” has been injured, must also determine what constitutes a domestic like product in order to define the industry. While both Commerce and the ITC must apply the same statutory definition regarding the domestic like product,¹³ they do so for different purposes and pursuant to a separate and distinct authority. In addition, Commerce’s determination is subject to limitations of time and information. Although this may result in different definitions of the like product, such differences do not render the decision of either agency contrary to law.¹⁴

Section 771(10) of the Act defines the domestic like product as “a product which is like, or in the absence of like, most similar in characteristics and uses with, the article subject to an investigation under this title.” Thus, the reference point from which the domestic like product analysis begins is “the article subject to an investigation” (*i.e.*, the class or kind of merchandise to be investigated, which normally will be the scope as defined in the petition).

With regard to the domestic like product, the petitioner does not offer a definition of the

¹³ See section 771(10) of the Act.

¹⁴ See *USEC, Inc. v. United States*, 132 F. Supp. 2d 1, 8 (CIT 2001) (citing *Algoma Steel Corp., Ltd. v. United States*, 688 F. Supp. 639, 644 (CIT 1988), *aff’d* 865 F. 2d 240 (Fed. Cir. 1989)).

domestic like product distinct from the scope of the investigations.¹⁵ Based on our analysis of the information submitted on the record, we have determined that sodium nitrite, as defined in the scope, constitutes a single domestic like product, and we have analyzed industry support in terms of that domestic like product.¹⁶

In determining whether the petitioner has standing under section 702(c)(4)(A) of the Act, we considered the industry support data contained in the Petitions with reference to the domestic like product as defined in the “Scope of the Investigations,” in the appendix to this notice. To establish industry support, the petitioner provided its own total production of sodium nitrite during the calendar year 2021.¹⁷ The petitioner also provided an estimate of the 2021 production for the only other known U.S. producer of sodium nitrite, SABIC Innovative Chemicals US, LLC.¹⁸ The petitioner then compared its own production to the total volume of sodium nitrite produced by the U.S. industry.¹⁹ We relied on data provided by the petitioner for purposes of measuring industry support.²⁰

Our review of the data provided in the Petitions, the General Issues Supplement, General Issues Errata, Second General Issues Supplement, and other information readily available to Commerce indicates that the petitioner has established industry support for the Petitions. First, the Petitions established support from domestic producers (or workers) accounting for more than 50 percent of the total production of the domestic like product and, as such, Commerce is not required to take further action in order to evaluate industry support (*e.g.*, polling).²¹ Second,

¹⁵ See Petitions at Volume I at 10-15.

¹⁶ For a discussion of the domestic like product analysis as applied to these cases and information regarding industry support, see Country-Specific CVD Initiation Checklists, “Countervailing Duty Investigation Initiation Checklists: Sodium Nitrite from India and the Russian Federation,” dated concurrently with this *Federal Register* notice and on file electronically via ACCESS (Country-Specific CVD Initiation Checklists) at Attachment II, Analysis of Industry Support for the Antidumping and Countervailing Duty Petitions Covering Sodium Nitrite from India and the Russian Federation (Attachment II).

¹⁷ See Petitions at Volume I at 3; see also General Issues Supplement at 3-4; General Issues Errata at 1.

¹⁸ See Petitions at Volume I at 3 and Exhibit I-1; see also General Issues Supplement at 3-4 and Exhibit I-25; General Issues Errata at 1; and Second General Issues Supplement at 1 and Exhibit I-28.

¹⁹ See General Issues Supplement at 4; see also General Issues Errata at 1.

²⁰ See Petitions at Volume I at 3 and Exhibit I-1; see also General Issues Supplement at 3-4 and Exhibit I-25; General Issues Errata at 1; and Second General Issues Supplement at 1 and Exhibit I-28. For further discussion, see Attachment II of the Country-Specific CVD Initiation Checklists.

²¹ See Country-Specific CVD Initiation Checklists at Attachment II; see also section 702(c)(4)(D) of the Act.

the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(i) of the Act because the domestic producers (or workers) who support the Petitions account for at least 25 percent of the total production of the domestic like product.²² Finally, the domestic producers (or workers) have met the statutory criteria for industry support under section 702(c)(4)(A)(ii) of the Act because the domestic producers (or workers) who support the Petitions account for more than 50 percent of the production of the domestic like product produced by that portion of the industry expressing support for, or opposition to, the Petitions.²³ Accordingly, Commerce determines that the Petitions were filed on behalf of the domestic industry within the meaning of section 702(b)(1) of the Act.²⁴

Injury Test

Because India and Russia are “Subsidies Agreement Countries” within the meaning of section 701(b) of the Act, section 701(a)(2) of the Act applies to these investigations. Accordingly, the ITC must determine whether imports of the subject merchandise from India and/or Russia materially injure, or threaten material injury to, a U.S. industry.

Allegations and Evidence of Material Injury and Causation

The petitioner alleges that imports of the subject merchandise are benefitting from countervailable subsidies and that such imports are causing, or threaten to cause, material injury to the U.S. industry producing the domestic like product. In addition, the petitioner alleges that subject imports exceed the negligibility threshold provided for under section 771(24)(A) of the Act.²⁵

The petitioner contends that the industry’s injured condition is illustrated by a significant and increasing volume of subject imports; declining market share; underselling and price depression and suppression; lost sales and revenues; declines in production, shipments, capacity

²² See Country-Specific CVD Initiation Checklists at Attachment II.

²³ *Id.*

²⁴ *Id.*

²⁵ See Petitions at Volume I at 15 and Exhibit I-7; see also General Issues Supplement at 4 and Exhibit I-26; General Issues Errata at 1-2 and Exhibit I-26.

utilization, and employment; and decline in sales revenues and negative impact on operating profits.²⁶ We assessed the allegations and supporting evidence regarding material injury, threat of material injury, causation, as well as negligibility, and we have determined that these allegations are properly supported by adequate evidence, and meet the statutory requirements for initiation.²⁷

Initiation of CVD Investigations

Based upon the examination of the Petitions and supplemental responses, we find that they meet the requirements of section 702 of the Act. Therefore, we are initiating CVD investigations to determine whether imports of sodium nitrite from India and Russia benefit from countervailable subsidies conferred by the GOI and the GOR, respectively. In accordance with section 703(b)(1) of the Act and 19 CFR 351.205(b)(1), unless postponed, we will make our preliminary determinations no later than 65 days after the date of these initiations.

India

Based on our review of the CVD Petition on sodium nitrite from India, we find that there is sufficient information to initiate a CVD investigation on all 21 alleged programs. For a full discussion of the basis for our decision to initiate on each program, *see* the India CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Russia

Based on our review of the CVD Petition on sodium nitrite from Russia, we find that there is sufficient information to initiate a CVD investigation on ten of the 11 alleged programs. For a full discussion of the basis for our decision to initiate on ten of the programs and to not

²⁶ See Petitions at Volume I at 15-34 and Exhibits I-5, I-7, I-9 through I-15, and I-18; *see also* General Issues Supplement at 4-7 and Exhibits I-22 through I-24 and I-27.

²⁷ See Country-Specific CVD Initiation Checklists at Attachment III, Analysis of Allegations and Evidence of Material Injury and Causation for the Antidumping and Countervailing Duty Petitions Covering Sodium Nitrite from India and the Russian Federation (Attachment III).

initiate on one program, *see* the Russia CVD Initiation Checklist. A public version of the initiation checklist for this investigation is available on ACCESS.

Respondent Selection

In the Petitions, the petitioner identified four companies in India and one company in Russia as producers/exporters of sodium nitrite.²⁸ Commerce intends to follow its standard practice in CVD investigations and calculate company-specific subsidy rates in this investigation.

India

In the event Commerce determines that the number of Indian producers/exporters is large and it cannot individually examine each company based upon Commerce's resources,²⁹ Commerce intends to select respondents based on U.S. Customs and Border Protection (CBP) data for U.S. imports of sodium nitrite from India during the POI under the appropriate Harmonized Tariff Schedule of the United States numbers listed in the "Scope of the Investigations," in the appendix.

On January 25, 2022, Commerce released CBP data for U.S. imports of sodium nitrite from India under Administrative Protective Order (APO) to all parties with access to information protected by APO and indicated that interested parties wishing to comment on the CBP data and/or respondent selection must do so within three business days of the publication date of the notice of initiation of these investigations.³⁰ Comments must be filed electronically using ACCESS. An electronically filed document must be received successfully, in its entirety, by ACCESS no later than 5:00 p.m. ET on the specified deadline. Commerce will not accept rebuttal comments regarding the CBP data or respondent selection. We intend to select respondents within 20 days of publication of this notice.

²⁸ See Volume I of the Petitions at 9-10 and Exhibit I-6.

²⁹ See section 777A(e)(2) of the Act and 19 CFR 351.204(c)(2).

³⁰ See Memorandum, "Countervailing Duty Petition on Imports of Sodium Nitrite from India: Release of U.S. Customs and Border Protection Data," dated January 25, 2022.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <https://enforcement.trade.gov/apo>.

Russia

In the Petition, the petitioner named only one company as a producer/exporter of sodium nitrite in Russia, UralChem, JSC.³¹ Furthermore, we placed CBP import data onto the record of this proceeding, which corroborates the existence of UralChem, JSC as the sole producer/exporter in the foreign market,³² and we currently know of no additional producers/exporters of subject merchandise from Russia. Accordingly, Commerce intends to examine all known producers/exporters in this investigation (*i.e.*, the company referenced above). As noted in the aforementioned Russia CBP Import Data Release Memo, we invite interested parties to comment on this issue within three days of publication of this notice in the *Federal Register*. Commerce will not accept rebuttal comments regarding respondent selection for Russia. Because we intend to examine all known producers/exporters, if no comments are received or if comments received further support the existence of this sole producer/exporter in Russia, we do not intend to conduct respondent selection and will proceed to issuing the initial countervailing duty questionnaire to the company identified. However, if comments are received that create a need for a respondent selection process, we intend to finalize our decisions regarding respondent selection within 20 days of publication of this notice.

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305(b). Instructions for filing such applications may be found on Commerce’s website at <https://enforcement.trade.gov/apo>.

Distribution of Copies of the Petitions

³¹ See Volume I of the Petitions at 10 and Exhibits I-6, I-10, and I-17; *see also* General Issues Supplement at 2-3.

³² See Memorandum, “Sodium Nitrite from the Russian Federation Countervailing Duty Petition: Release of Customs Data from U.S. Customs and Border Protection,” dated January 28, 2022 (Russia CBP Import Data Release Memo).

In accordance with section 702(b)(4)(A) of the Act and 19 CFR 351.202(f), copies of the public version of the Petitions have been provided to the GOI and GOR via ACCESS. To the extent practicable, we will attempt to provide a copy of the public version of the Petitions to each exporter named in the Petitions, as provided under 19 CFR 351.203(c)(2).

ITC Notification

Commerce will notify the ITC of its initiation, as required by section 702(d) of the Act.

Preliminary Determinations by the ITC

The ITC will preliminarily determine, within 45 days after the date on which the Petitions were filed, whether there is a reasonable indication that subject imports are materially injuring, or threatening material injury to, a U.S. industry.³³ A negative ITC determination for any country will result in the investigation being terminated with respect to that country.³⁴ Otherwise, these CVD investigations will proceed according to the statutory and regulatory time limits.

Submission of Factual Information

Factual information is defined in 19 CFR 351.102(b)(21) as: (i) evidence submitted in response to questionnaires; (ii) evidence submitted in support of allegations; (iii) publicly available information to value factors under 19 CFR 351.408(c) or to measure the adequacy of remuneration under 19 CFR 351.511(a)(2); (iv) evidence placed on the record by Commerce; and (v) evidence other than factual information described in (i)–(iv). Section 351.301(b) of Commerce’s regulations requires any party, when submitting factual information, to specify under which subsection of 19 CFR 351.102(b)(21) the information is being submitted³⁵ and, if the information is submitted to rebut, clarify, or correct factual information already on the record, to provide an explanation identifying the information already on the record that the

³³ See section 703(a) of the Act.

³⁴ *Id.*

³⁵ See 19 CFR 351.301(b).

factual information seeks to rebut, clarify, or correct.³⁶ Time limits for the submission of factual information are addressed in 19 CFR 351.301, which provides specific time limits based on the type of factual information being submitted. Interested parties should review the regulations prior to submitting factual information in these investigations.

Extensions of Time Limits

Parties may request an extension of time limits before the expiration of a time limit established under 19 CFR 351.301, or as otherwise specified by Commerce. In general, an extension request will be considered untimely if it is filed after the expiration of the time limit established under 19 CFR 351.301. For submissions that are due from multiple parties simultaneously, an extension request will be considered untimely if it is filed after 10:00 a.m. ET on the due date. Under certain circumstances, Commerce may elect to specify a different time limit by which extension requests will be considered untimely for submissions which are due from multiple parties simultaneously. In such a case, Commerce will inform parties in a letter or memorandum of the deadline (including a specified time) by which extension requests must be filed to be considered timely. An extension request must be made in a separate, stand-alone submission; Commerce will grant untimely filed requests for the extension of time limits only in limited cases where we determine, based on 19 CFR 351.302, that extraordinary circumstances exist. Parties should review Commerce's regulations concerning factual information prior to submitting factual information in these investigations.³⁷

Certification Requirements

Any party submitting factual information in an AD or CVD proceeding must certify to the accuracy and completeness of that information.³⁸ Parties must use the certification formats

³⁶ See 19 CFR 351.301(b)(2).

³⁷ See 19 CFR 351.301; *see also Extension of Time Limits; Final Rule*, 78 FR 57790 (September 20, 2013), available at <https://www.gpo.gov/fdsys/pkg/FR-2013-09-20/html/2013-22853.htm>

³⁸ See section 782(b) of the Act.

provided in 19 CFR 351.303(g).³⁹ Commerce intends to reject factual submissions if the submitting party does not comply with the applicable certification requirements.

Notification to Interested Parties

Interested parties must submit applications for disclosure under APO in accordance with 19 CFR 351.305. Parties wishing to participate in these investigations should ensure that they meet the requirements of 19 CFR 351.103(d) (e.g., by filing the required letters of appearance).

This notice is issued and published pursuant to sections 702 and 777(i) of the Act, and 19 CFR 351.203(c).

Dated: February 2, 2022

Lisa W. Wang
Assistant Secretary
for Enforcement and Compliance

³⁹ See *Certification of Factual Information to Import Administration During Antidumping and Countervailing Duty Proceedings*, 78 FR 42678 (July 17, 2013) (*Final Rule*); see also frequently asked questions regarding the *Final Rule*, available at https://enforcement.trade.gov/tlei/notices/factual_info_final_rule_FAQ_07172013.pdf.

Appendix

Scope of the Investigations

The product covered by these investigations is sodium nitrite in any form, at any purity level. In addition, the sodium nitrite covered by these investigations may or may not contain an anti-caking agent. Examples of names commonly used to reference sodium nitrite are nitrous acid, sodium salt, anti-rust, diazotizing salts, erinitrit, and filmerine. Sodium nitrite's chemical composition is NaNO_2 , and it is generally classified under subheading 2834.10.1000 of the Harmonized Tariff Schedule of the United States (HTSUS). The American Chemical Society Chemical Abstract Service (CAS) has assigned the name "sodium nitrite" to sodium nitrite. The CAS registry number is 7632-00-0. For purposes of the scope of these investigations, the narrative description is dispositive, not the tariff heading, CAS registry number or CAS name, which are provided for convenience and customs purposes.

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